

May 3, 2011

Marlene Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554



Re: Notice of *Ex Parte* Presentation
MM Docket No. 99-25 (Creation of Low Power Radio Service)

Dear Ms. Dortch:

On Monday, May 2, 2011, low power FM ("LPFM") advocates, including the undersigned, participated in a series of four separate meetings with Commission staff to discuss matters in the above-captioned docket. The following staff attended these meetings: Peter Doyle, Tom Hutton, and Kelly Donohue of the Media Bureau's Audio Division (the "Audio Division Participants"); Joshua Cinelli, Media Advisor to Commissioner Michael J. Copps; Dave Grimaldi, Chief of Staff and Media Legal Advisor to Commissioner Mignon Clyburn; and Thomas Reed, Director of the Commission's Office of Communications Business Opportunities.

The LPFM advocates attending each of these four meetings were Mike Lee and Peter Franck of the National Lawyers Guild's ("NLG") and its Committee on Democratic Communications ("CDC"); Brandy Doyle of Prometheus Radio Project ("Prometheus"), and Matt Wood of Media Access Project ("MAP"). They were accompanied by NLG member Steve Pershing only during the meeting with Mr. Reed.

The NLG members opened each meeting by describing in brief the role that CDC lawyers played historically, and continue to play today, in fostering greater access to platforms for free expression and economic empowerment such as community radio stations. During yesterday's meetings, but especially during the meeting with the Audio Division Participants, the LPFM advocates then discussed possible service rules and filing procedures for LPFM applicants in any forthcoming licensing window. The LPFM advocates described in the abstract various rules that could maximize local service while promoting participation by a diverse pool of community-based prospective licensees. For example, the NLG members suggested that the Commission consider more flexible technical rules for LPFM stations, and all of the advocates endorsed the Commission's exploration of local origination requirements for LPFM station programming.

Such measures would increase opportunities for service to, and operation of radio stations by, members of typically unserved populations and communities – promoting all manner of diversity on the airwaves in the spirit of the Commission's original goals for LPFM. *See, e.g., Creation of a Low Power Radio Service*, Notice of Proposed Rulemaking, 14 FCC Rcd 2471, ¶ 1 (1999) ("In creating these new classes of stations, our goals are to address unmet needs for community-oriented radio broadcasting, foster opportunities for new radio broadcast ownership, and promote additional diversity in radio voices and program services."); *id.* ¶ 57 ("We see the increased opportunity for entry, enhanced diversity, and new program services as the principal

benefits of a new low power service.”); *see also id.* ¶ 8 (citing LPFM proponents’ assertions that LPFM could serve the needs of people of color and linguistic minorities “often ignored by full power stations”).

During all of the meetings, the LPFM advocates also presented their views on the import of Local Community Radio Act of 2010 (“LCRA”). Section 5 of that Act requires the Commission to ensure, when licensing any LPFM or FM translator stations, that licenses are available to applicants for both services, and that such spectrum allocation and licensing decisions are made based on the service needs of the local community. The LCRA therefore requires implementation that assures meaningful spectrum availability and satisfactory channels for LPFM stations in every community, including the largest radio markets and urban centers from which LPFM effectively had been precluded prior to the LCRA’s passage. As the NLG representatives suggested, and as Prometheus and MAP agree, preserving meaningful availability within the local communities that the LCRA describes will require the Commission to promote LPFM opportunities in densely populated areas, not merely at the edges of large metropolitan radio markets.

Lastly, the LPFM advocates explained that the “ten-cap” solution for processing Auction No. 83 FM translator applications, as set forth in the *Third Report and Order* in this docket, would have a preclusive impact on low power FM stations – both nationwide and in the vast majority of major metropolitan markets. They outlined various potential solutions for processing translator applications, suggesting in all cases that the Commission has the flexibility to craft market-specific solutions as necessary, and reiterating their openness to any alternative that would ensure fair availability for LPFMs.

We submit this letter today pursuant to Section 1.1206(b) of the Commission’s rules, 47 C.F.R. § 1.1206(b). Please contact me should you have any questions regarding this submission.

Respectfully submitted,

/s/ Matthew F. Wood

Matthew F. Wood
Associate Director
Media Access Project

cc: Thomas Reed
Dave Grimaldi
Joshua Cinelli
Peter Doyle
Tom Hutton
Kelly Donohue